

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN MCBREARTY, et al.	:	CIVIL ACTION
	:	
v.	:	
	:	
DELAWARE COUNTY SHERIFFS	:	
DEPARTMENT, et al.	:	NO. 02-4553

O R D E R

AND NOW, this day of January, 2003, upon consideration of plaintiffs' Motion Requesting Leave to File an Amended Complaint (Doc. #10), as a party may amend its pleading once as a matter of course before a responsive pleading is served, see Fed. R. Civ. P. 15(a); as no defendant has filed a responsive pleading in that a motion to dismiss is not considered a responsive pleading, see Sun Co., Inc. v. Badger Design & Constr., 939 F. Supp. 356, 367 n.3 (E.D. Pa. 1996); and, as the "Amendment to Complaint" filed by plaintiffs on December 17, 2002 was not properly served on the opposing parties in this case, see Fed. R. Civ. P. 5(b) (service shall be on paper unless party to be served consents to service by other means), and does not conform to the rules of pleading set forth in Fed. R. Civ. P. 8(a), **IT IS HEREBY ORDERED** that said Motion is **GRANTED** in that plaintiffs shall have ten days to file an amended complaint and shall properly serve all named parties within ten days after the filing of such an amended complaint with the Clerk.

BY THE COURT:

JAY C. WALDMAN, J.